

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEAL No 226 of 1981

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SUKHLAL RANCHHOD

Versus

THA. JAYANTILAL RANCHHOD

Appearance:

MR SURESH M SHAH for Appellant
MR DU SHAH for Respondent No. 1

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 10/08/2000

ORAL JUDGEMENT

In this Second Appeal filed under sec.100 of CPC the appellant/defendant has brought under challenge the judgment and decree dated May 1, 1981 recorded in Regular Civil Appeal No.66/80 by the learned Extra Assistant Judge, Jamnagar by which he allowed the appeal filed by

the respondent/plaintiff and thereby set-aside the judgment and decree dated April 28, 1980 passed in Regular Civil Suit No.55/77 by the learned Civil Judge (J.D.), Bhanvad, Jodhpur.

The respondent filed Regular Civil Suit No.55/77 in the Court of Civil Judge (J.D.), Bhanvad, Jodhpur for possession of agricultural land bearing Survey No.560 admeasuring Acre-5-Guntha-4 from the defendant. The said suit was dismissed with costs vide a judgment and decree dated April 28, 1980.

Aggrieved thereby, the respondent preferred Regular Civil Appeal No.66/80 in the District Court of Jamnagar. The learned Assistant Judge, Jamnagar allowed the appeal and thereby allowed the suit filed by the respondent and directed the appellant to handover the possession of the suit land vide a judgment and decree dated May 1, 1981.

It is this judgment which has given rise to this Second Appeal which was admitted for hearing on the substantial question of law formulated while admitting the appeal.

Today, when the matter is called out for final hearing, Mr.SM Shah, learned advocate for the appellant and Mr.DU Shah, learned advocate for the respondent are present and both of them strenuously contested the matter by canvassing their submissions which are elaborate indeed. Thereafter, both of them jointly submitted that both the parties are negotiating for compromise and both of them are hopeful that the matter may be amicably settled. Therefore, the matter is adjourned for some time meanwhile, the parties have arrived at the settlement which has been reduced into writing, and as per the settlement, by consent of the parties decree which was passed by the Appellate Court is required to be modified. As per the terms and conditions of the settlement, the appellant/defendant shall retain 1.5 Acre of the suit land from the western side and shall handover vacant and peaceful possession of the remaining land of the suit field bearing Survey No.560 of Village Bhanvad to the respondent/plaintiff on or before November 30, 2000.

Mr.SM Shah, learned advocate states that appellant shall file undertaking on affidavit interalia stating that the appellant shall handover the possession of the remaining land of the suit field as per the settlement to the respondent without fail. Both the

learned advocates jointly submitted that, in view of the settlement as stated hereinabove this Court may modify the impugned decree and issue necessary directions in that regard.

In view of the settlement arrived at between the parties, as per the terms and conditions of the settlement, decree which is impugned in this appeal now stands modified as under :

It is ordered and decreed that the appellant/defendant shall retain 1.5 Acre of the suit land from the western side and he shall handover the vacant and peaceful possession of the remaining suit land bearing Survey No.560 of Village Bhanvad to the respondent/plaintiff on or before November 30, 2000 without fail.

It is also ordered that the appellant/defendant shall file undertaking to this effect in this Court before August 31, 2000 interalia stating that the appellant shall handover vacant and peaceful possession of the remaining land of the suit field Survey No.560 of Village Bhanvad to the respondent/plaintiff by November 30, 2000 as per the settlement and modified decree recorded by this Court.

Appeal stands disposed of accordingly with no order as to costs. Modified decree be drawn accordingly as early as possible preferably on or before September 31, 2000. Settlement pursis produced herewith shall be retained on record.

(A.M. Kapadia, J.)

/sakfaf